



June 28, 2007

To: Transportation Authority of Marin Commissioners

From: Dianne Steinhauser, Executive Director

Through: Eric Schatmeier, Manager of Planning

RE: BPAC By-Laws, Agenda Item 7e

Dear Commissioners:

### **Executive Summary**

At its May 24 meeting, the TAM Board agreed to form a Bicycle/Pedestrian Advisory Committee (BPAC) for the county in answer to public participation requirements that must be observed to ensure eligibility for state and regional funding programs. As a result of questions that arose during that discussion, staff is providing detail on the duties of the BPAC. The committee will serve as an advisory body to TAM's Executive Director in three required areas of consultation: 1. Selection of candidate projects for Transportation Development Act (TDA) Article 3 funds, 2. Similar selection of Regional Bike/Ped Program funded projects, and 3. coordination of routine accommodation issues that may arise regarding meeting bicycle and pedestrian needs in transportation capital projects funded by MTC.

To answer Executive Committee and Board concerns about specific committee roles and responsibilities, staff has drafted proposed by-laws reflecting requirements of state law and regional guidelines. The draft has undergone review by the Executive Committee and the attached draft includes Executive Committee input.

**Recommendation: That the TAM Board of Commissioners adopt the proposed BPAC By-Laws as a means for defining specific responsibilities of the BPAC.**

### **Background**

At its May 24 meeting, the TAM Board of Commissioners agreed to form a Bicycle/Pedestrian Advisory Committee (BPAC) consisting of six geographic representatives (Novato/Northern Marin, Southern Marin, Larkspur/Corte Madera, West Marin, San Rafael and the Ross Valley) and nine members representing eight specialized perspectives (The Marin Public Works Association (2), bicyclists, pedestrians, the disabled, seniors, schools, business and the environment. To keep committee size manageable, individual members may represent more than one group.). The Committee's participation in various state and regional funding program decisions is necessary to ensure public participation is a part of those decisions. The Committee will make recommendations to TAM's Executive Director, who will then make a final recommendation to the TAM Board. In particular, candidate projects for State Transportation

Development Act (TDA) Article 3 bicycle funds and Regional Bicycle/Pedestrian Program (RBPP) funds require committee review, according to guidelines drafted by Metropolitan Transportation Commission (MTC) staff in support of Commission Resolutions 875 and 3644. MTC is delegated the responsibility to establish these funding guidelines and procedures by state statute. MTC also requires consideration in regional policy of routine accommodation of bicycle and pedestrian needs in transportation capital projects funded by MTC. The BPAC will review candidate projects with these policies in mind and recommend resolution of issues.

### **Finding**

Other Bay Area BPACs mandated by MTC are governed by by-law documents describing committee duties, membership and operating procedures. Although local funding programs and committee participation in other counties vary, core BPAC responsibilities related to TDA and RBPP are similar. To address concerns raised by the Executive Committee and the Board at their May meetings, staff submits a Draft By-Laws (attached) for Board consideration and approval.

At the Executive Committee meeting of June 13<sup>th</sup>, several comments and clarifications were provided to staff. These have been incorporated into the final Draft document.

Note that several attached documents provide background on mandated BPAC roles and responsibilities.

**Recommendation: That the TAM Board of Commissioners adopt the proposed BPAC By-Laws as a means for defining specific responsibilities of the BPAC.**

Attachment 1 State Statute reference to regional policy for use of TDA Article 3 funds  
Attachment 2: MTC policy directing use and composition of BPAC by CMA , excerpt  
Attachment 3: MTC policy directing use of BPAC in selecting RBPP projects  
Attachment 4: Draft BPAC By-Laws

(b) To the Stanislaus Area Association of Governments, an amount approved by that association, but not more than 3 percent of annual revenues, to conduct the transportation planning and programming process, unless a greater amount is approved by the director.

(c) To pedestrian and bicycle facilities, not more than 2 percent of the funds remaining, in accordance with Section 99233.3.

(d) To the Stanislaus Area Association of Governments, an amount deemed necessary for intracity, intercity, and interregional transit services and rail passenger services, when a claim is filed under Section 99234.9, Article 4 (commencing with Section 99260), or Article 8 (commencing with Section 99400), consistent with the cost-sharing criteria approved by the association. Apportionments and allocations from those funds made by the association to the county and the cities in the county also shall be in accordance with the cost-sharing criteria approved by the association.

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles or for bicycle safety education programs shall be filed according to the rules and regulations adopted by the transportation planning agency.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction, or for bicycle safety education programs.

(c) The money may be allocated for the maintenance of bicycling trails that are closed to motorized traffic pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction.

(d) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(e) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new trails serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(f) Notwithstanding any other provision of this section, a planning agency established in Title 7.1 (commencing with Section 66500) of the Government Code may allocate the money to the Association of Bay Area Governments for activities required by Chapter 11 (commencing with Section 5850) of Division 5 of the Public Resources Code.

(g) Notwithstanding any other provision of this section, the transportation planning agencies that allocate funds, pursuant to this section, to the cities and counties with jurisdiction or a sphere of influence within the delta, as defined in Section 5852 of the Public Resources Code, may allocate the money to the Delta Protection Commission for activities required by Chapter 12 (commencing with Section 5852) of Division 5 of the Public Resources Code.

(h) Within 30 days after receiving a request for a review from any city or county, the transportation planning agency shall review its allocations made pursuant to Section 99233.3.

(i) In addition to the purposes authorized in this section, a portion of the amount available to a city or county pursuant to Section 99233.3 may be allocated to develop a comprehensive bicycle and pedestrian facilities plan, with an emphasis on bicycle projects

Date: November 26, 1980  
W.I.: 51410  
Referred By: GR&AC  
Revised: 11/24/82-C 11/26/86-C  
09/23/87-C 03/24/88-C  
12/18/91-C 11/25/92-C  
01/28/98-C 09/27/00-C  
05/23/01-C 11/20/02-C  
04/28/04-C 03/23/05-C

Attachment A  
Resolution No. 875, Revised  
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TRANSPORTATION DEVELOPMENT ACT, ARTICLE 3,  
PEDESTRIAN/BICYCLE PROJECTS  
Procedures and Project Evaluation Criteria

**PROCEDURES**

Eligible Claimants

The Transportation Development Act (TDA), Public Utilities Code Sections 99233.3 and 99234, makes funds available in the nine-county Metropolitan Transportation Commission (MTC) Region for pedestrian/bicycle purposes. MTC makes annual allocations of TDA Article 3 funds to eligible claimants after review of applications submitted by counties or congestion management agencies.

All cities and counties in each of the nine MTC region counties are eligible to claim funds under TDA Article 3. Joint powers agencies are also eligible.

Application

1. Counties or congestion management agencies will be responsible for putting together an annual program of projects, which they initiate by contacting the county and all cities and joint powers agencies within their jurisdiction and encouraging submission of project applications.
2. Claimants will send one or more copies to the county or congestion management agency (see "Priority Setting" below).
3. A project is eligible for funding if:
  - a. The project sponsor submits a resolution of its governing board that addresses the following six points:
    1. There are no legal impediments regarding the project.
    2. Jurisdictional or agency staffing resources are adequate to complete the project.

3. There is no pending or threatened litigation that might adversely affect the project or the ability of the project sponsor to carry out the project.
  4. Environmental and right-of-way issues have been reviewed and found to be in such a state that fund obligation deadlines will not be jeopardized.
  5. Adequate local funding is available to complete the project.
  6. The project has been conceptually reviewed to the point that all contingent issues have been considered.
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- b. the project is construction and/or engineering of a capital project; is to maintain a Class I bikeway which is closed to motorized traffic; is for a bicycle safety education program; is to develop comprehensive bicycle or pedestrian facilities plans (allocations to a claimant for this purpose may not be made more than once every five years); or for the purposes of restriping Class II bicycle lanes.
  - c. the claimant is eligible to claim TDA Article 3 funds under Section 99233.3 of the Public Utilities Code;
  - d. if it is a Class I, II or III bikeway project it meets the mandatory minimum safety design criteria published in Chapter 1000 of the California Highway Design Manual (Available via Caltrans headquarters' World Wide Web page); or if it is a pedestrian facility, it meets the mandatory minimum safety design criteria published in Chapter 100 of the California Highway Design Manual (Available via Caltrans headquarters' World Wide Web page);
  - e. the project is ready to implement within the next fiscal year;
  - f. *if the project includes construction, that it* meets the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.) and project sponsor submits an environmental document that has been stamped by the County Clerk within the past three years.
  - g. a jurisdiction agrees to maintain the facility.
  - h. the bicycle project is included in one or more of the following: a detailed bicycle circulation element or plan included in a general plan or an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.).

#### Priority Setting

1. The county or congestion management agency shall establish a process for establishing project priorities in order to prepare an annual list of projects being recommended for funding. Each county and city is required to have a Bicycle Advisory Committee (BAC) to review and prioritize TDA Article 3 bicycle projects and to participate in the development and review of comprehensive bicycle plans. (BACs are mandated by State Transportation

Control Measure [STCM #9], adopted by MTC on November 28, 1990, MTC Resolution No. 2178, Revised).

A city BAC shall be composed of at least 3 members who live or work in the city. More members may be added as desired. They will be appointed by the City Council. The City or Town Manager will designate staff to provide administrative and technical support to the Committee.

Cities under 10,000 population who have difficulty in locating a sufficient number of qualified members, may apply to MTC for exemption from these requirements. Cities over 10,000 population may also apply to MTC for exemption from the city BAC requirement if they can demonstrate that the countywide BAC provides for expanded city representation.

A county BAC shall be composed of at least 5 members who live or work in the county. More members may be added as desired. The County Board of Supervisors and/or Congestion Management Agency (CMA) will appoint BAC members. The county or congestion management agency executive/administrator will designate staff to provide administration and technical support to the Committee.

(Note: The intent is that BACs be composed of bicyclists/pedestrians.)

2. The project lists developed by the City BACs shall be recommended to its City or Town Council. The Countywide Bicycle Advisory Committee will forward all city project lists to the County Public Works Department or congestion management agency for evaluation/prioritization. County Committees will, at a minimum, be responsible for evaluating *bicycle* projects within the unincorporated portions of the county and setting a countywide prioritization list (based on city and county project lists) for annual TDA Article 3 allocations. Either the Board of Supervisors or the Congestion Management Agency (CMA) will adopt the annual countywide list and forward it to MTC for approval.
3. The county or congestion management agency will forward to MTC a copy of the following:
  - a) Applications for the recommended projects, including a governing body resolution, stamped environmental document, and map for each, as well as a cover letter stating the total amount of money being claimed; *and confirmation that each project meets Caltrans' minimum safety design criteria and is ready to implement within the next fiscal year.*
  - b) the complete priority list of projects with an electronic version to facilitate grant processing.
  - c) an indication of how and when the projects were reviewed by city and county committees and representatives and what methods were used to contact interested members of the public; and

Date: July 28, 2004  
W.I.: 1125  
Referred by: PAC

Attachment A  
MTC Resolution No. 3644  
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## **Regional Bicycle and Pedestrian Program Program Guidelines**

### **I. Program Description**

The Regional Bicycle and Pedestrian Program was created by the Commission to fund the construction of the Regional Bicycle Network and regionally significant pedestrian projects. The Commission committed \$200 million in Phase One of Transportation 2030 to support the regional program over a 25-year period. These guidelines govern the first four years worth of Federal Congestion Management and Air Quality Mitigation (CMAQ) funding, a total of \$32 million for FY 2005/06 through FY 2008/09.

Sub-Programs: The program funds in the first four years are divided into two portions: 25% of the total funds is designated as the Regional Portion, a competitive program in which projects will be selected based on evaluation criteria in these guidelines; the remaining 75% of the funds is designated as the County Portion which is distributed to county congestion management agencies (CMAs) based on their county population shares. The CMAs, with review of bicycle and pedestrian interests, will select projects for the 75% county portion based on criteria developed by the CMA and will identify projects to submit to MTC for consideration for the 25% regional portion. Consistent with MTC Resolution No. 3615, each county will receive 100% of its population share of funding over a 12-year period. Table 1 shows each county's total four-year 75% program level; annual targets consistent with the programming policies in MTC Resolution 3615 will be provided by MTC in the call for projects. Table 2 shows each county's 100% 12-year population share.

**Table 1: Program Funding Levels FY 05/06 – FY 08/09**

	<b>Funds Available</b>
<b>Total 4-Year Funding</b>	<b>\$32,000,000</b>
<b>Total Regional Portion (25%)</b>	<b>\$8,000,000</b>
<b>Total County Portion (75%)</b>	<b>\$24,000,000</b>
Alameda	\$5,107,755
Contra Costa	\$3,356,779
Marin	\$874,874
Napa	\$439,682
San Francisco	\$2,747,973
San Mateo	\$2,501,837
Santa Clara	\$5,952,752
Solano	\$1,395,835
Sonoma	\$1,622,513

## **V. Application and Evaluation Process**

**Step 1:** MTC issues a “call for projects” to the CMAs. The call for projects will include a form for submitting projects for the Regional Portion.

**Step 2:** CMAs solicit projects within their counties

- a. CMAs screen projects based on the adopted eligibility criteria.
- b. With review from their bicycle and pedestrian committees (or other committees with bicycle and pedestrian interests represented<sup>3</sup>) CMAs select projects for the County Portions based on criteria developed at the discretion of each CMA and identify projects for submittal to MTC for the competitive Regional Portion.

**Step 3:** CMAs submit to MTC:

- Board approved, prioritized list of projects for the County portion with recommended programming years for each project. MTC staff will review county lists for consistency with the adopted eligibility criteria. The amount of funds requested by a CMA in any year may not exceed the annual county target provided by MTC with the call for projects. A CMA may choose to defer selection of specific projects for FY 07/08 and FY 08/09 until early 2006, when the remainder of the STP and CMAQ funds will be programmed in preparation for the 2007 Transportation Improvement Program (TIP).
- Project applications for those projects to be considered for the Regional Portion.
- Documentation that the projects recommended for the County portion and those submitted for consideration for the Regional Portion were reviewed with both bicycle and pedestrian interests, as described under Step 2.

**Step 4:** MTC evaluates projects submitted by CMAs for consideration for the Regional Portion. The evaluation will be conducted with a committee of representatives from the Regional Bicycle Working Group, Regional Pedestrian Committee, Bay Area Partnership and MTC staff.

**Step 5:** MTC’s Executive Director will make a funding recommendation to the Commission. The recommendation for the Regional Portion will be based on the evaluation in Step 4. The recommendation for the County Portion, will be based on the prioritized lists of projects submitted to MTC in Step 3. County priorities will be adhered to up to the 4-year county funding amount shown in Table 1. Projects with higher local match would receive priority for programming in the early years.

**Step 6:** Following Commission’s approval, grant recipients will submit to MTC a board-approved resolution demonstrating commitment to fund and build the project and an opinion of legal counsel. The recipient will attend a workshop on implementation and the federal-aid process. Grant recipients will be required to take the project through the

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<sup>3</sup> Pedestrian representatives can include advocates, public works staff, parks and recreation staff, or other agency staff with responsibility for planning and implementing pedestrian improvements.



federal-aid process with Caltrans Local Assistance. Funds returned from the County portion may be reprogrammed to another project based on the recommendations from the CMA. Funds returned to the Regional Portion will be reprogrammed according to Commission policy.

Crediting of Sales Tax funds

Consistent with Resolution 3615, a CMAQ crediting option is available to counties with existing sales tax measures that commit a minimum of 5% of the sales tax measure funds to bicycle and pedestrian projects. Alameda and San Francisco counties meet this threshold and are eligible to exercise this crediting option. These counties can receive a CMAQ credit (of up to 60% of their 75% population-share funding distribution in the Regional Bicycle and Pedestrian Program) for county sales tax measure funds dedicated to regional bicycle and pedestrian projects eligible under these guidelines. The credited amount can be used for other CMAQ eligible projects in the county.

Credit will be given at the start of each cycle. As a condition for receiving credit in the next four-year programming cycle, CMAs must report back to MTC at the end of each cycle with evidence that local sales tax funds were spent to implement eligible bike/pedestrian projects meeting the eligibility criteria in these guidelines. No credit will be allowed during the first two fiscal years of the program (FY 2005/06 and FY 2006/07).

# **Marin County Bicycle/Pedestrian Advisory Committee By-Laws**

This Draft By-Laws outlines the proposed purpose, duties, membership, and operating procedures of the Marin County Bicycle/Pedestrian Advisory Committee (BPAC)

## **1. Purpose**

To involve concerned citizens in the development, funding, programming and implementation of bicycle and pedestrian improvement projects and programs administered by the Transportation Authority of Marin (TAM) in the following program areas:

- Transportation Development Act Article 3 funds (TDA Art 3)
- Regional Bicycle Pedestrian Program funds (RBPP)
- Routine Accommodation on MTC funded projects

## **2. Duties**

- A. The BPAC is an advisory committee to TAM's Executive Director. The duties of the committee shall be:
  - Make recommendations on the annual priority list of bicycle and pedestrian projects for the TDA Article 3 and MTC Regional Bicycle and Pedestrian programs.
  - Review and provide comments to TAM's Executive Director on the meeting of MTC policy requirements regarding routine accommodation of bicycle and pedestrian needs in capital projects funded by MTC.
- B. The committee will serve in an advisory capacity to TAM's Executive Director. It has no independent duties and no authority to take actions that bind TAM or the County. Nor may it authorize expenditures or requisition services or supplies or seek reimbursement for travel or other expenses without approval by the TAM Board.
- C. Additional duties related to county-wide bicycle and pedestrian programs or issues may be assigned to the BPAC as determined by the TAM Board and the TAM Executive Director.

## **3. Membership**

The TAM Board intends that the BPAC represent both bicycle and pedestrian views, that it represent all areas of the county and that it reflect Marin County's diversity in age, income, gender and ethnicity to the greatest extent possible. To achieve this intent, the BPAC shall consist of 13 members, six of whom are appointed to represent both bicycle and pedestrian interests in geographic areas of the county and seven to represent a variety of special bicycle and pedestrian perspectives. The geographic representatives shall be from Novato/Northern Marin, Southern Marin, Larkspur/Corte Madera, West

Marin, San Rafael and the Ross Valley. Each area representative will also have an alternate who will perform the regular member's duties in the event of absence. Alternates shall be nominated by the TAM Board member(s) representing the area. Other members will represent seniors, the disabled, schools and the County Public Works Association (two members). In addition, there shall be an at-large bicycle and an at-large pedestrian member. One of these last seven members must also represent environmental interests. At least one other must represent business interests. TAM staff will solicit members through an application process and recommend committee appointments to the TAM Board. Each geographic representative must be acceptable to TAM Board members representing that area. Members of the BPAC must be Marin County residents.

Initially, half the BPAC members will be appointed for two year terms; the remainder for three year terms. At the conclusion of the first term appointments will be for two year terms. Members may be appointed to successive terms.

#### **4. Meetings**

The BPAC will meet at least quarterly, but no more than six times per year at times that coincide with the various funding cycles and requests for input from public agencies. Regular quarterly meetings will be on the [times and dates to be determined] at [location to be determined]. A special meeting may be called by the BPAC chair with approval by the TAM Executive Director. Special meetings will be noticed, conducted and recorded according to the same procedures as regular meetings.

TAM staff will provide administrative support for the committee including scheduling, meeting location and notice, preparation of agendas and minutes and preparation of reports to the TAM Board. All regular and special meetings will comply with the requirements of the Brown Act. Notice of meetings and agendas will be given to all BPAC members and any member of the public requesting such notice in writing, and will be posted to the TAM website at least 72 hours prior to each meeting. All meetings will be open to the public, except for closed sessions permitted by the Brown Act. Members of the public may address the BPAC on any matter not on the agenda and on each matter listed on the agenda, pursuant to procedures set by the committee. TAM staff will be responsible for ensuring that the BPAC observes Brown Act provisions and is aware of the Act's requirements.

For purposes of decision making, a quorum shall consist of at least half the currently-serving members of the committee. No actions will be taken at meetings without a quorum. Items may be discussed and information distributed on any item even if a quorum is not present.

## **5. Officers**

The BPAC shall annually elect a Chair and Vice-Chair. An individual receiving a majority of votes by a quorum of the BPAC shall be elected and will assume office at the meeting following the election (except at the BPAC's first meeting where the elected chair will assume office immediately). Officers will be eligible for re-election for two subsequent one-year terms.

The Chair shall preside at all BPAC meetings. The Chair may also identify, in consultation with TAM staff, items of interest for future agendas that are relevant to the BPAC's duties and responsibilities. The Vice-Chair will assume all duties of the Chair in the absence of, or upon the request of the Chair.

## **6. Adoption and Amendment of Bylaws**

BPAC Bylaws may be amended by the TAM Board. The TAM Board will consider